

Calendar No. 1892

82D CONGRESS }
2d Session }

SENATE

{ REPORT
{ No. 1974

ALBERT O. HOLLAND AND BERGTOR HAALAND

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5238]

The Committee on the Judiciary, to which was referred the bill (H. R. 5238) for the relief of Albert O. Holland and Bergtor Haaland, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On line 8, strike the period and add the following:
while employed in Venezuela under contract with the Venezuelan government.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to preserve for Albert O. Holland and Bergtor Haaland their United States citizenship notwithstanding their residence abroad while employed in Venezuela under contract with the Venezuelan Government.

STATEMENT OF FACTS

The beneficiaries of the bill became citizens of the United States by naturalization on January 12, 1912, and October 1, 1935, respectively. They are skilled craftsmen in the plumbing and heating trade and in 1945 they were sent to Venezuela by an American firm to assume responsible positions in the construction of several buildings in Caracas, Venezuela. Subsequently the contract was abrogated by the new government in power which took over the construction work. They returned to the United States in June 1946 and in September

1946 the Venezuelan Government requested that they return to complete the project. They are now in the United States and their services are urgently needed by the government of Venezuela. The bill would preserve their United States citizenship while employed in Venezuela notwithstanding the provision of the Nationality Act of 1940 which provides for loss of nationality by naturalized citizens who reside abroad for 5 years.

A letter, with attached memorandum, dated September 11, 1951, to the chairman of the Committee on the Judiciary of the House of Representatives from the Assistant Secretary of State with reference to the case reads as follows:

SEPTEMBER 11, 1951.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

MY DEAR MR. CELLER: Further reference is made to your letter of August 30, 1951, transmitting, for the comment of the Department of State, copies of H. R. 5238, for the relief of Albert O. Holland and Bergtor Haaland.

There is enclosed a copy of a memorandum setting forth the facts in the cases of Messrs. Holland and Haaland which was prepared in June 1951, when their applications for passport facilities to enable them to return to Venezuela for an extended stay were under consideration. In view of the special circumstances of the cases of Messrs. Holland and Haaland, this Department offers no objection to the enactment of legislation which would permit them to retain their American citizenship while fulfilling their contracts with the Venezuelan Government. It is suggested, however, that the following clause be inserted in H. R. 5238 after the words "shall not" in line 4: "while employed in Venezuela under contract with the Venezuelan government,".

Sincerely yours,

JACK K. McFALL,
Assistant Secretary.
For the Secretary of State:

(Enclosure: Copy of memorandum).

JUNE 26, 1951.

APPLICATION OF SECTION 404 (C) OF THE NATIONALITY ACT OF 1940 TO THE CASES OF
ALBERT OLE HOLLAND AND BERGTOR HAALAND

Mr. Holland and his nephew, Mr. Haaland, were born in Norway. Mr. Holland came to the United States in 1903 and was naturalized as an American citizen on February 12, 1912. Mr. Haaland emigrated to the United States in March 1928 and was naturalized as an American citizen on October 1, 1935. Messrs. Holland and Haaland are skilled craftsmen in the plumbing and heating trade. In September 1945, they were sent to Venezuela by the American firm of Meritt-Chapman, Scott & Fuller to assume responsible positions in the construction of several buildings of a large project known as the Institute of University City at Caracas under contracts awarded the firm by the Venezuelan Government. Shortly thereafter, the Government of Venezuela was overthrown and a new government came into force. The new government abrogated the contract with the American firm and took over the construction of the project at University City. Messrs. Holland and Haaland then returned to the United States. The Venezuelan Government, lacking trained and experienced craftsmen capable of directing the work of installing the plumbing, heating, and ventilating systems of a project of the size of the Institute of University City undertaking, sought the services of Messrs. Holland and Haaland. After satisfactory arrangements for their employment had been completed, Mr. Haaland returned to Caracas on July 21, 1946, and Mr. Holland on September 10, 1946. They have since remained in Venezuela. In view of section 404 of the Nationality Act of 1940, Mr. Haaland's passport is limited in validity to July 20, 1951, and Mr. Holland's to September 9, 1951, or 5 years after the date on which each returned to Caracas, Venezuela.

Mr. Haaland arrived in the United States on February 3, 1951, and, on March 15, 1951, applied for passport facilities to enable him to return to Venezuela to

continue his employment under the Venezuelan Government. It is contemplated that the completion of the work will require a further stay in Venezuela of about 3 years. Mr. Holland recently arrived in the United States and is also seeking further passport facilities covering a period of 3 years to enable him to return to Venezuela to complete his work on the University City project. In each case, the application for extension of validity of the present passport was disapproved on the ground that the bearer would lose citizenship under section 404 (c) of the Nationality Act of 1940 if Venezuela should continue to be the place of his general abode beyond the date on which his passport presently expires.

The employment of Messrs. Holland and Haaland by the Venezuelan Government does not bring them within any of the exceptions provided for in sections 405 and 406 of the Nationality Act of 1940. Under the terms of the act, the Department has no authority to hold section 404 of the act to be inapplicable to naturalized American citizens who are residing abroad for compelling reasons other than those reasons specifically covered in sections 405 and 406. Inasmuch as section 104 of the act provides that, for the purposes of section 404, the place of general abode shall be deemed the place of residence, it is clear that, for the purposes of section 404, Messrs. Holland and Haaland must be considered to have been residing in Venezuela since 1946, even though they may claim to have maintained domiciles or legal residences in the United States. Also, they have not broken the continuity of their residence in Venezuela by their temporary visits to the United States. Section 404 of the Nationality Act would be wholly ineffective if its operation could be avoided by a short temporary absence from the foreign country. From the comments respecting sections 104 and 404 of the act in the report of the committee which drafted the Nationality Act of 1940, it is obvious that it was the intention of the committee that the word "continuously" as used in subsections (b) and (c) of section 404 should require a continuity of stay but not uninterrupted personal presence in the foreign state and that its only purpose is to prevent the adding together of widely separated sojourns in a foreign state to arrive at a total of 3 or 5 years' residence in the foreign state.

The Passport Division has reviewed the cases of Messrs. Holland and Haaland several times but it has been unable to find any sound basis upon which they could be considered to retain American citizenship if they should return to Venezuela for an extended stay. It has been agreed that, as the University City project is a nonprofit Government project to further medical and engineering knowledge, as the services of Messrs. Holland and Haaland are of great importance to the Venezuelan Government and their replacement at this stage of the construction with other qualified specialists would mean a great loss of time and money to the Government, as they are morally obligated to carry out their commitments, and as their presence in Venezuela is beneficial to the United States in that they further amicable relations between the two countries and also promote American trade and commerce through the introduction of American material, methods, and techniques, the Department should hold administratively and exceptionally that they have broken the continuity of their residence in Venezuela by their short visits to the United States and may therefore return to Venezuela for a further sojourn of 3 years without losing citizenship. The averments concerning the value and importance of the work to both Venezuela and the United States are undoubtedly true, but it would be most unfortunate if the Department, in order to render what seems to be natural justice in individual cases, should disregard the law or attempt to mold it to fit individual cases or classes of cases. No matter how inequitable a law may seem to operate in a particular case or class of cases, it is the duty of the Department to construe and apply it as appears necessary from its language. Insofar as naturalized American citizens who reside or wish to reside in a country which is neither the country of birth nor the country of former allegiance are concerned, it is believed that the law is unduly restrictive and causes undeserved loss of citizenship, but the remedy is to amend the law.

In addition, the following letter, with attached memorandum, dated June 9, 1952, has been submitted to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General in connection with the bill:

JUNE 9, 1952.

Hon. PAT McCARRAN,

Committee on the Judiciary, United States Senate, Washington, D. C.

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 2194) for the relief of Albert O. Holland and Bergtor Haaland. The bill would waive the provisions of section 404 of the Nationality Act of 1940.

A memorandum prepared by the Immigration and Naturalization Service setting forth the facts in the case is attached

As naturalized citizens of the United States, the beneficiaries would not be able to return to their employment in Venezuela without jeopardizing their United States citizenship. Whether under the circumstances they should be exempted from the operation of the naturalization laws presents a question of legislative policy concerning which this Department prefers not to make any recommendation. If the committee is disposed to recommend enactment of the bill, it is suggested that the following clause be inserted in S. 2194, after the word "not" in line 5: "while employed in Venezuela under contract with the Venezuelan Government,".

Sincerely,

A. DEVITT VANECH,
Deputy Attorney General.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE ALBERT O. HOLLAND AND BERGTOR HAALAND, BENEFICIARIES OF S. 2194

Albert O. Holland and Bergtor Haaland are natives of Norway, who were born on August 23, 1888, and October 24, 1899, respectively. They were naturalized as citizens of the United States on January 12, 1912, and October 1, 1935, respectively.

According to information furnished by the Department of State, they are skilled craftsmen in the plumbing and heating trade. In September 1945 they were sent to Venezuela by the American firm of Merritt-Chapman, Scott & Fuller to assume responsible positions in the construction of several buildings in a large project known as the Institute of University City, at Caracas, Venezuela, under contracts awarded the firm by the Venezuelan Government. Shortly thereafter the Government of Venezuela was overthrown and a new government came into force. The new government abrogated the contract and took over the construction of the project. Messrs. Holland and Haaland then returned to the United States.

On June 21, 1946, Mr. Haaland returned to Venezuela, and Mr. Holland returned to that country on September 10, 1946, after their services had been solicited by the Venezuelan Government in connection with the installation of the plumbing, heating, and ventilating systems in the project buildings. Mr. Haaland returned to the United States on February 3, 1951, and thereafter applied for a passport so that he might continue his employment in Venezuela. Mr. Holland has also returned to this country, but desires to return to Venezuela for further employment by the Venezuelan Government.

Senator Theodore Francis Green has introduced in the Senate a similar bill, S. 2194. In view of the fact that the committee is reporting on the present bill favorably the bill, S. 2194, will be indefinitely postponed.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H. R. 5238), as amended, should be enacted.